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ABSTRACT

Public Law 99-457, the Education of the Handicapped Amendments of 1986, reauthorizes the discretionary programs of the Education of the Handicapped Act, provides incentives to states to serve an estimated additional 70,000 handicapped 3- to 6-year-olds and creates a new discretionary program to address the special needs of handicapped infants and toddlers and their families. In this summary of the amendments, each of the titles is described. The section on Title I considers grants to states, components of a statewide system, individualized family support plans, and application criteria and approval. The section on Title II discusses eligibility criteria, sanctions, distribution to local education agencies, and amendments to the state plan. The section on Title III covers regional resource and federal centers; services for deaf-blind children; early education for handicapped children; research, innovation, training, and dissemination activities; postsecondary education programs; secondary education and transitional services; grants for personnel training; grants to state education agencies; research and demonstration projects; grants to recruit school personnel; and educational technology and media. The section on Title IV discusses such miscellaneous issues as removal of architectural barriers, expanded use of funds by state education agencies, special provisions regarding Native Americans, standards for qualified personnel, and evaluation. (CB)

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'EHA Amendments of 1986' Becomes Law; Establishes New Partnerships for Early Intervention Programs

P.L. 99-457 Promises Major Federal Partnership In Early Childhood Education

The most important piece of federal legislation affecting special education since the passage of P.L. 94-142 in 1975 was signed into law by President Reagan on October 8.

P.L. 99-457, the Education of the Handicapped Amendments of 1986 (1) reauthorizes the discretionary programs of the Education of the Handicapped Act, (2) provides incentives to States to serve an estimated additional 70,000 handicapped children 3 through 5 who currently are not now being served, (260,000 children currently are being provided services) and (3) creates a new discretionary program to address the special needs of handicapped infants and toddlers (birth through age two) and their families.

The Act authorizes a total of $125 million for FY '87 and '88 for the new birth-2 program. Congress has already appropriated $180 million for FY '87 for the 3-5 program, more than a six-fold increase over FY '86.

Under the Act, after four years, each State–if it wants to continue receiving federal financial assistance under the birth-2 and 3-5 programs–must have in place among other things a policy to provide appropriate early intervention services to all handicapped infants and toddlers in the State.

Rep. Pat Williams (D-MT), Chair of the House Subcommittee on Select Education which sponsored HR 5520 which became P.L. 99-457, says:

> "This piece of legislation is the most important thing that this Congress will do for handicapped infants and young children up to the age of 5 in this decade and perhaps for the remainder of this century. This legislation will require commitment, effort, expertise, long hours, and, yes, money."

Senator Lowell Weicker (R-CT), Chair of the Senate Subcommittee on the Handicapped, says:

> "This legislation represents an important step forward in fulfilling a Federal commitment to those most vulnerable in our society, who require special care. It is the right thing to do, in both human and economic terms."

Representative Steve Bartlett (R-TX) says:

> "These improvements are tantamount to a Head Start program for these handicapped infants and preschoolers who, because of these services, will likely require less special education when they enter school. . . .We have a bipartisan bill, supported by disability and school administration groups. . ."

The impetus for P.L. 99-457 began last fall. Senator Weicker's subcommittee staff developed a comparable bill which passed unanimously in the Senate in June. That bill (S.2294), however, would have required States to serve all 3-5 year old preschoolers or risk loss of all P.L. 94-142 funding.

The House Subcommittee on Select Education then held emergency hearings on S.2294, receiving testimony from scores of witnesses representing diverse interests. The outcome was a bill (HR 5520) which the House passed unanimously in late September, which the Senate then accepted as its own, and which President Reagan signed on October 8.

The Act contains four parts. Title I describes the requirements for the new program to serve infants, toddlers and their families (birth-2); Title II describes the revised pre-school (3-5) grant programs; Title III describes revisions in the discretionary grant programs. Title IV contains several amendments to P.L. 94-142.

A section-by-section summary of the new legislation follows.

P.L. 99-457 Funding Profile

	1987	1988	1989
Part H: Handicapped Infants and Toddlers	$50m	$75m	Funds as needed
Section 619: Preschool Grants	Funds as may be necessary		
Section 621: Regional Resource and Federal Centers	$6.7m	$7.1m	$7.5m
Section 622: Deaf-Blind Children and Youth	$15.9m	$16.8m	$17.8m
Section 623: Early Education for Handicapped Children	$24.47m	$25.87m	$27.41m
Section 624: Programs for Severely Handicapped Children	$5.3m	$5.6m	$5.9m
Section 625: Postsecondary Education Programs	$8.8m	$9.2m	$9.6m
Section 626: Secondary Education and Transitional Services	$7.3m	$7.7m	$8.1m
Section 631 and Section 632: Grants for Personnel Training	$70.4m	$74.5m	$78m
Section 633: Clearinghouse	$1.2m	$1.8m	$2m
Section 641: Research and Demonstration Projects	$18m	$19m	$20.1m
Section 652: Media and Captioned Films	$15m	$15.75m	$16.54m
Part G: Technology and Media	$10m	$10.5m	$11.025m
Section 618: Evaluation	$3.8m	$4m	$4.2m

Section-by-Section Summary of P.L. 99-457

TITLE I: Handicapped Infants and Toddlers

Section 101 adds Part H to the Education of the Handicapped Act, establishing a new discretionary program addressing the special needs of handicapped infants and toddlers and their families.

Findings and Policy

New Section 671 of the Act contains the findings and policy of the new part. "Congress finds an urgent and substantial need to enhance the development of handicapped infants and toddlers and minimize their potential for developmental delay; reduce the education costs to our society, including our schools; minimize the likelihood of institutionalization; and enhance the capacity of families to meet the special needs of their infants and toddlers with handicaps."

"It is therefore the policy of the United States to provide financial assistance to states to develop and implement a statewide, comprehensive, coordinated, interdisciplinary program of early intervention services for handicapped infants and toddlers and their families; facilitate coordination of payments for early intervention services from various public and private sources; and enhance the capacity to provide quality early intervention services and expand and improve existing services."

Section 672 of the Act Defines terms. Handicapped infants and toddlers means individuals from birth through 2 who are in need of early intervention services because they are (1) experiencing developmental delays as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, language and speech development, psycho-social development, or self-help skills, or (2) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay. The term may also include, at a State's discretion, individuals (birth-2) who are "at risk" of having substantial developmental delays if early intervention services are not provided.

The term "developmental delay" is to be defined by each State.

Early intervention services. The term means developmental services which:

(1) are provided under public supervision;

(2) are provided at no cost, except where federal or State law provides for a system of payments by families, including a schedule of sliding fee;

(3) are designed to meet a handicapped infant's or toddler's developmental needs (physical development, cognitive development, and self-help skills.);

(4) meet the standards of the State;

(5) are provided by qualified personnel, including special educators, speech and language pathologists and audiologists, occupational therapists, physical therapists, social workers, nurses, and nutritionists;

(6) are provided in conformity with an individualized family service plan; and

(7) include: family training, counseling, and home visits; special instruction; speech pathology and audiology; occupational therapy; physical therapy; psychological services; case management services; medical services only for diagnostic or evaluation purposes; early identification, screening, and assessment services; and health services necessary to enable the infant or toddler to benefit from the other early intervention services.

Case management services. The term includes services provided to families to assist them in gaining access to early intervention services and other services identified in the individualized family service plan; to ensure timely delivery of available services; and to coordinate the provision of early intervention services with other services (such as medical services for other than diagnostic and evaluation purposes) which the infant or toddler needs or is being provided. It is intended that case management be an active, ongoing process of continuously seeking the appropriate services or situations to benefit the development of each infant or toddler being served for the duration of each child's eligibility.

Grants to States.

The Act grants authority to the Secretary of Education (Section 673) to make grants to States to assist the States develop and implement a comprehensive, coordinated, multidisciplinary program of early intervention services for handicapped infants and toddlers and their families. This program is designed to build upon existing State systems of serving handicapped infants and toddlers and to facilitate the development of systems in states desiring to serve this population.

In order to be eligible for assistance under the new Part H each State must have established a State Interagency Coordinating Council.

First two years. To be eligible for the first or second year of a State's Participation, a State must include in its application assurances that funds will be used to assist the State to plan, develop, design, and establish the statewide system.

It is expected that funds will be used under this part for the first three years to accomplish many of the same objectives expected to have been accomplished under the planning, development and implementation grants authorized under section 632(b) of current law.

Third year eligibility. To be eligible for a grant for the third year of a State's participation, a State must adopt a policy which incorporates all of the components of a statewide system of early intervention services and the system will go into effect before the beginning of the fourth year.

The Secretary may permit a State to continue to receive assistance for the third year even if it has not adopted the policy establishing the statewide system if the State demonstrates that it has made a good faith effort to adopt such a policy and assures that the policy will go into effect before the beginning of the fourth year.

Components of a Statewide System

States which have in effect a State law (enacted prior to September 1, 1986) requiring provision of a free, appropriate public education to handicapped children from birth through age 2 are automatically eligible for grants under this part.

New Section 676 of the Act specifies the minimum components of a statewide system consisting of a comprehensive, coordinated, multidisciplinary program of early intervention services for all handicapped infants, toddlers and their families. Those components include:

- the definition of the term "developmentally delayed" that will be used by the State in carrying out the program.
- reasonable goals and timetables for making appropriate early intervention services available to all handicapped infants and toddlers in the State.
- performance of a timely, comprehensive and multidisciplinary evaluation of the functioning of each handicapped infant and toddler and the needs of the families to appropriately assist in the development of the handicapped infant and toddler.
- development of individualized family service plans and the provision of case management services.
- a comprehensive child find system and a system for referrals to service providers that includes timelines and provides for the participation by primary referral sources (hospitals, physicians, public health facilities, etc.)
- a public awareness strategy program on early identification of handicapped infants and toddlers.
- a central directory which includes early intervention services, resources, and experts available in the State, plus research and demonstration projects being conducted in the State.
- a comprehensive system of personnel development that includes training of public and private service providers, primary referral sources, and persons who will provide services after receiving such training.
- a single line of authority in an agency designated by the Governor to carry out (1) the general administration, supervision, and monitoring of programs and activities; (2) the identification and coordination of all available resources within the State from Federal, State, local, and private sources; (3) the resolution of inter-agency disputes and procedures for ensuring the provision of services pending the resolution of such disputes; and (4) the entering into of formal State interagency agreements that define the financial responsibility of each State agency for paying for early intervention services (consistent with State law).
- a policy pertaining to the contracting or making of other arrangements with local service providers.
- procedural safeguards with respect to early intervention programs.
- a system for compiling data regarding the early intervention programs (which may be based on a sampling of data).

Individualized Family Service Plan

New Section 677 of the Act establishes and describes the individualized family service plan.

Under subsection (a), each handicapped infant or toddler and the infant's or toddler's family must receive a multidisciplinary assessment of unique needs and services appropriate to meet such needs and a written individualized family service plan developed by a multidisciplinary team, which includes the parent or guardian.

Under subsection (b), the individualized family service plan must be reviewed once a year and the family provided a documented update of the program at least at 6-month intervals.

Under subsection (c), the plan must be developed within a reasonable time after the assessment. (However, with the parent's consent, early intervention services may commence prior to the completion of the assessment).

Under subsection (d), the plan must be in writing and contain: (1) a statement of the infant's or toddler's present levels of development based on objective criteria; (2) a statement of the family's strengths and needs relating to enhancing the development of the family's handicapped infant or toddler; (3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family; to the extent appropriate, the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made; and whether modifications or revisions of the outcomes or services are necessary; (4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity and the method of delivering services; (5) the projected dates for initiation of available services and the aniticipated duration of such services; (6) the name of the case manager from the profession most immediately relevant to the infant's, toddler's or family's needs who will be responsible for the implementation of the plan (to the extent early intervention services are available in the State) and coordination with other agencies or persons; and (7) the steps to be taken supporting the transition of the handicapped infant or toddler to services provided under Part B of the Act.

Application Criteria and Approval

New Section 678 of the Act sets forth the policies governing the submission of a State's application and plan and the approval by the Secretary. The application must include information demonstrating that the State has provided public hearings, provided adequate notice of such hearings, and an opportunity for comment to the general public prior to the submission of the application and prior to the adoption by the State of the policies described in the application, and designate the lead agency to be responsible for the administration of funds.

Use of Funds. New Section 679 of the Act specifies that in addition to using funds under Part H to plan, develop, design, and establish the statewide system, a State may use such funds for direct services for handicapped infants and toddlers that are not otherwise provided from other public or private sources and to expand and improve on services that are otherwise available.

Procedural Safeguards. New Section 680 sets out the procedural safeguards which must provide, at a minimum, for the timely resolution of complaints by parents including the right to appeal to State or Federal Court; the right to confidentiality of personally identifiable information; the opportunity to examine records; procedures to protect the rights of handicapped infants and toddlers whenever the parents or guardian of the child are not known, unavailable or the child is a ward of the State, including the assignment of a surrogate; and written prior notice to the parents or guardian under specified circumstances.

Payor of Last Resort. New Section 681 specifies that nothing in Part H be construed to permit the state to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act or Title XIX of the SSA (relating to medicaid for handicapped infants and toddlers) within the State.

Interagency Coordinating Council. New Section 682 establishes an Interagency Coordinating Council, and specifies its composition, rules governing its meetings, its management authority, its functions and responsibilities, rules governing conflict of interest and the use of existing councils.

States which have established a Council before September 1, 1986 that is comparable to the Council called for in the Act shall be considered to be in compliance with the law. Within 4 years after the date the State accepts funds under Section 673, such State must establish a Council that complies in full with this section.

$50 million Authorization. New Section 685 authorizes to be appropriated to carry out Part H $50 million for fiscal year 1987 and such sums "as may be necessary" for each of the four succeeding fiscal years.

Section 101(b) mandates a joint study (to be conducted by the Secretary of Education and the Secretary of Health and Human Services) of the funding sources for early intervention programs, service gaps, and problems with service delivery. It is Congress' expectation that the various Federal agencies will develop a uniform policy that ensures a maximum availability of funding for early intervention services from existing sources. A joint report must be submitted to Congress no later than 18 months after enactment of this Act describing findings of the study and the joint actions taken.

TITLE II—Handicapped Children Aged 3 Through 5

The current incentive grant program is repealed in lieu of a new pre-school grant program. Based on data prepared by the Department of Education, the States are currently serving more than 75 percent of the handicapped children aged three through five, in the country (260,000 out of 330,000). As a result of testimony presented to both Houses of Congress, the Committee fully expects that, with the enhanced incentives for serving three through five year old handicapped children, all States will be serving all eligible children by school year 1990-91 or 1991-92, depending on the level of funds appropriated under the preschool program by the Congress.

The bill establishes maximum funding levels which a State may receive and includes conditions which a State must satisfy in order to be eligible for assistance. It prescribes the apportionment of funds between the State educational agency and local educational agencies and the procedures for suballocating funds to local educational agencies; identifies acceptable uses of funds; and includes an amendment concerning the circumstances under which a State may count handicapped children aged 3-5 for purposes of receiving funds for the basic State grant under Section 611 of the Act and other conforming amendments to Section 611.

States will receive different funding levels for each of the school years 1987-88, 1989-1990, and school years thereafter. For school year 1987-88 (funds appropriated in FY 1987), of the funds appropriated, the Secretary must first allocate to each State $300 per each 3-5 year old served in the previous school year. The purpose of this provision is to reward States that are currently serving this age group.

The Secretary must then allocate to each State an amount equal to the portion of the appropriation available after making the allocations described in the previous paragraph to all States (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of handicapped children aged three - five who will be receiving special education and related services in all States multiplied by the estimated number of such children in such State. The Secretary shall develop regulations that prescribe the procedure States must use for making estimates; and the date by which the estimate must be submitted; and the date on which the actual number of additional children is determined.

The maximum amount a State may receive is $3800 per additional child served. If the amount appropriated exceeds the amount of grants which may be made to the States for such school year, the excess amount appropriated must remain available for obligation for two succeeding fiscal years.

This policy also applies for the school years 1988-89 and 1989-90 except that the $300 ceiling is raised to $400 and $500, respectively.

For school years 1990-91 and thereafter there is no distinction between children served in the previous and current school years; instead the maximum is set at $1000 per child served in the preceding school year. The bill also includes a ratable reduction provision which applies whenever funds appropriated is insufficient to pay States in full the maximum amounts which they may receive.

Eligibility Criteria. In order to be eligible for federal funds for this program the bill provides that for school years 1987-88 and 1989-90 a State must meet the eligibility requirements and have a State Plan approved under Part B of the Act (Sections 612 and 613) and provide special education and related services to somewhat but not necessarily all handicapped children aged 3-5.

For school year 1990-91 and thereafter a State must meet the eligibility requirements under Part B of the Act and amend its State Plan to include policies and procedures that assure the availability under State law and practice of a free appropriate public education for all handicapped children aged 3-5.

The requirement to serve all 3-5 year old handicapped children during school year 1990-1991 is postponed one school year if either of the following events occur: (1) the aggregate appropriated for the fiscal years 1987-89 was less than $656 million or (2) the appropriation for fiscal year 1990 was less than $306 million. The $306 million figure constitutes an appropriation based on an assumption of 340,000 children served times $900 per child.

Distribution to LEAs. For school year 1987-88, a State must distribute at least 70 percent to local educational agencies. Not more than 25 percent may be reserved by the SEA for planning and development of a comprehensive delivery system (consistent with the purposes for which the State received a grant under Section 623(b) of the Act during school years prior to 1987-88) and for direct and support services for handicapped children aged 3-5. Not more than 5 percent may be reserved by the SEA for administrative expenses.

During the school year 1988-89 and thereafter the proportion is at least 75 percent to LEAs, not more than 20 percent for planning and development and direct and support services, and not more than 5 percent for administrative expenses.

Services provided by local education agencies, must be provided in conformity with all rules applicable to children aged 6-17, including the development of an individualized education program.

Sanctions. Any State that fails to provide a free appropriate public education for all handicapped children aged 3-5 for school year 1990-91 or school year 1991-92, depending on which school year the requirement to serve all such children goes into effect, may not count its 3-5 year old handicapped children for purposes of receiving that portion of its P.L. 94-142 allotment. Further, State or LEA or other public institution or agency may receive a grant under Parts C through G which relates only to pre-school matters unless the State is eligible for a preschool grant under Section 619; and, the State will not be eligible for assistance under the preschool grant until it serves those children.

Supplement, Not Supplant; Interagency Coordination

Section 203 clarifies the relationship among public agencies for providing or paying for services set out in a child's IEP. This issue was the subject of a recent report entitled "Special Education–Financing Health and Educational Services for Handicapped Children", prepared by the United States General Accounting Office (GAO/HRD-86-62BR, July, 1986).

The GAO Report concludes that Congress, in enacting P.L. 94-142, established a single line of authority and placed this authority with educational agencies. This means that if there were disputes among agencies regarding responsibility for paying for a particular service, then pending the resolution, the educational agency must ensure that the handicapped child receives the services set out in his or her IEP. The effect of this policy is to prevent buckpassing among agencies from occurring.

Although P.L. 94-142 designated the SEA as responsible for ensuring that handicapped children receive a free appropriate public education, GAO found that it did not make the educational agency solely financially responsible for all services provided. Thus, with respect to which agency must ultimately pay for the appropriate services, Congress intended that the services be paid for from various sources, including funds appropriated under P. L. 94-142, State and local educational funds, as well as funds from other Federal, State, and local sources such as Medicaid for which the handicapped children qualify.

In support of this conclusion, GAO (p.29) quotes the Senate Report accompanying P.L. 94-142:

> ". . .the state educational agency is responsible for assuring that funds for the education of handicapped children under other Federal laws will be utilized. . .."
> ". . .there are local and state funds and other Federal funds available to assist in this process. Any funds available from the Federal Government are clearly in addition to funds provided under this Act and are available to states to assist them in carrying out their responsibilities under state laws, state constitutions, and the U.S. Constitution, and should be so utilized."

In sum, Congress established a legal framework under which one agency is ultimately accountable (the educational agency) and multiple agencies are expected to pay for appropriate services (educational agencies as well as health, welfare, and other social service agencies).

Amends State Plan Provision. Section 203 thus amends the P.L. 94-142 State plan provision in Part B in three ways. First, the "supplement, not supplant" provision in the Act (Section 613(a)(9)(B)) is applicable to funds from other federal programs.

Second, SEAs must set forth policies and procedures for developing interagency agreements between the SEA and other appropriate State and local agencies to define the financial responsibility of each agency for providing handicapped children with a free appropriate public education and to resolve interagency disputes.

Third, a new subsection (e) is added to Section 613 of the Act which provides that P.L. 94-142 shall not be construed to permit a State to reduce medical or other assistance available or to alter eligibility under Title V or Title XIX of the Social Security Act with respect to the provision of a free appropriate public education for handicapped children within the State.

TITLE III—Discretionary Programs

Regional Resource and Federal Centers. Section 621 of the Act, which establishes regional resource centers is amended in the following ways:

- permits the RRCs to provide assistance to SEAs with respect to early intervention services for handicapped infants and toddlers and their families;
- specifies that services provided by the RRCs must be consistent with the priority needs identified by the States served by an RRC and with the Department's findings contained in monitoring reports;
- functions of RRCs are expanded to include the provision of information to and training for agencies, institutions, and organizations regarding techniques and approaches for submitting applications for funds under Parts C through G of the Act;
- authorizes the Secretary to establish one coordinating technical assistance center (maximum $500,000) focusing on national priorities established by the Secretary to assist the RRCs in the delivery of technical assistance. One of the issues this center may address is the training of hearing examiners.

Services for Deaf-Blind Children and Youth. The bill authorizes the Secretary (1) to make grants or enter into contracts or cooperative agreements for the development and operation of extended school year demonstration programs for severely handicapped children and youth, including deaf-blind children and youth, and (2) to make grants to, or enter into contracts or cooperative agreements with, the entities set out in Section 624 of the Act for the purposes set out in Section 624(a).

Early Education for Handicapped Children. The early education for handicapped children program is amended in the following ways:

- clarifies that funds may be used to support demonstration and outreach programs as well as experimental programs;
- directs the Secretary to arrange for the establishment of a technical assistance development system (TADS) to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to handicapped children. This system is currently in existence under the authority of Section 624 of the Act;

- directs the Secretary to arrange for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on early intervention for young handicapped children and their families. These institutes are currently funded under the authority of Section 624 of the Act;

- provides that at least one year prior to the termination of a grant, contract, or cooperative agreement for a system or research institute, the Secretary must publish in the Federal Register a notice of intent to recompete the award contingent on the appropriation of sufficient funds by Congress;

- repeals the subsection in the Act authorizing State planning, development, and implementation grants for preschool and early intervention. (It is the intent that these functions will continue to be performed with respect to preschoolers under the authority of Section 619, as amended and with respect to infants and toddlers under the authority of new Part H.).

Research, Innovation, Training, and Dissemination Activities in Connection With Centers and Services for the Handicapped. Section 624 of the Act is amended to focus funding primarily on programs for the severely handicapped. At the same time, the Secretary is permitted to address the needs of handicapped children and youth who are not severely handicapped under this section.

Postsecondary Education Programs. The postsecondary education programs is amended in two ways. First, the bill adds a requirement that recipients must coordinate their efforts with and disseminate information about their activities to the clearhinghouse on postsecondary programs. Second, it requires that at least one year prior to the termination of a grant or contract with any of the four regional centers of the deaf, the Secretary must publish in the Federal Register a notice of intent to recompete the award, contingent on the appropriation of sufficient funds by Congress.

Secondary Education and Transitional Services for Handicapped Youth. Section 626, secondary education and transitional services for handicapped youth, is amended in several ways.

(1) clarifies the policy that programs can serve not only handicapped youth currently in school but may also serve handicapped youth who recently left school;

(2) clarifies the concept of "transition" to connote services that are provided to a handicapped child throughout his years in school, not simply during the last two or three years before he or she graduates out of the special education system. The bill also specifies "conducting studies of handicapped youth drop-outs" as a purpose of this section;

(3) clarifies the criteria used to approve applications for assistance under this section; and (4) Adds a tenth category to the list of authorized projects – "Specifically designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation."

Grants for Personnel Training. Congress is greatly concerned that shortages of qualified personnel in the provision of special education and related services to handicapped children are reaching crisis proportions.

The data reported in testimony to Congress indicates that approximately one-fourth of the personnel in special education do not now meet State certification standards, in a number of school districts vacancies are going unfilled, class size and case loads are increasing, the number of colleges and universities offering training programs is declining and almost all States report that they are unable to fill these personnel needs from training programs within their borders. Five and ten year projections suggest an even worsening situation. Though the Federal government cannot solve this crisis alone the long-standing Federal role in this area must be strengthened.

Section 631 of the Act, grants for personnel training,is amended in the following ways:

- it clarifies the purpose of training to include training for personnel in preschool and early intervention services;
- it specifies that in making grants, the Secretary must base the determination on information relating to the present and projected need for the personnel to be trained based on identified State and regional shortages, the capacity of the institution or agency to train qualified personnel, the need for Federal assistance, the manner in which Federal funds will be used, and other information considered appropriate by the Secretary;
- includes the application of new technology as an example of special projects designed to develop new approaches for training. Also, added to the list of special projects is the training of teachers to work in community and school settings with handicapped secondary school students;
- with respect to parent training centers, provides that parents (current law) and persons who work with parents (instead of volunteers, which is in the current law) are the beneficiaries of the training. It also provides that such grants must be designed to meet the unique training and information needs of parents of handicapped children (current law), particularly (striking the word "including") those who are members of groups that have been traditionally underrepresented, living in the area to be served by the grant.
- specifies that the Secretary give priority to grants which involve unserved areas, and clarifies that parent training and information programs may, at the recipient's discretion, include State or local educational personnel where such participation will further an objective of the program assisted by the grant.

Grants to State Educational Agencies. Section 632 of the Act, grants for State educational agencies for traineeships, is amended to direct the Secretary to make grants to each State education agency and permits the Secretary to make grants to institutions of higher education to assist in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth, or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development.

Grants to Improve Recruitment of Educational Personnel and Dissemination of Information Concerning Educational Opportunities for the Handicapped. Section 633 of the Act is amended by renaming the heading to "Clearinghouses" and by removing responsibilities from the National Clearinghouse on the Education of the Handicapped related to recruitment of personnel and creates a new clearinghouse developed exclusively to encourage students and professional personnel to seek and obtain careers and employment in the various fields relating to the education of handicapped children and youth.

Research and Demonstration Projects in Education of Handicapped Children. Section 641 of the Act, research and demonstration projects in education of handicapped children, is amended to make it clear that research may include issues related to early intervention for handicapped infants and toddlers. The bill also adds the following to the list of authorized uses of funds: the development of instruments, including but not limited to, tests, inventories, and scales for measuring progress of handicapped infants, toddlers, children and youth across a number of developmental domains.

Panels of Experts. Section 643 of the Act, panels of experts, is amended in a number of ways: (1) the Secretary must convene panels of experts who are competent to evaluate proposals for projects under Parts C through G which includes a total funding request exceeding $60,000, and may convene panels for applications for less than that amount; (2) the panels must be composed of individuals from the field of special education for the handicapped and other relevant disciplines who have significant expertise and experience in the content areas and age levels addressed in the proposals, and handicapped individuals and parents of handicapped individuals when appropriate. The panels must include a majority of non-Federal members.

Captioned Films and Educational Media for Handicapped Persons. Section 652 of the Act is amended to clarify that its purpose includes addressing problems of illiteracy among the handicapped and clarifies that public libraries may be used for the distribution of captioned films and other educational media and equipment. The bill also authorizes the Secretary to make grants to the National Theatre of the Deaf. The bill repeals Section 653, centers on educational media and materials for the handicapped and includes instead a new Part G.

Centers on Technology, Educational Media, and Materials for the Handicapped. A new Part G (replacing Section 653 of the Act) is designed to advance the use of new technology, media, and materials in the education of handicapped students and the provision of early intervention to handicapped infants and toddlers.

TITLE IV—Miscellaneous

Removal of Architectural Barriers. Section 607 of the Act pertaining to architectural barriers is amended to clarify that the Secretary may also make grants to the Secretary of the Interior for the purpose of removing barriers in schools serving Indians on reservations.

Definitions. Section 602(a) of the Act is amended to clarify that community colleges receiving funding from the Secretary of the Interior under P.L. 95-471 are considered institutions of higher education for purposes of applying for discretionary grants under Parts C through G of the Act and that the term "public or private nonprofit agency or organization" includes an Indian tribe. Definitions of the terms "Indian" and "Indian tribe" are also included.

"12% Cap". The "12 percent cap" in Section 611(a)(5)(A)(i) of the Act is amended to be consistent with other changes in this bill regarding increased incentives to serve children aged 3 to 5, inclusive. In States that serve all handicapped children aged 3 to 5, inclusive, the determination of whether the 12 percent figure has been exceeded is determined by dividing the number of handicapped children aged 3-17, inclusive by the total number of children aged 3-17.

Where a State serves some but not all handicapped children aged 3-5, inclusive, then the 12 percent is determined by dividing the number of handicapped children aged 5-17, inclusive by the total number of children in the State aged 5-17.

SEA Administration. Section 611(c)(2)(ii) of the Act is amended to allow SEAs an expansion in the use of funds under the state set-aside for administration to the extent that the cost of monitoring and complaint investigation exceed the cost of monitoring and complaint investigation during fiscal year 1985. This will provide the States with additional resources to ensure that the Act is being appropriately implemented.

Native Americans. Section 611(f) of the Act is amended to increase from 1 to 1.25 percent the amount reserved for use by the Secretary of the Interior for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior.

The bill also requires that the Bureau of Indian Affairs assure that all handicapped children aged 3 through 5, receive a free appropriate public education by or before the 1987-88 school year.

Qualified Personnel. Section 613 of the Act (the State plan) is amended to require inclusion of policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of Part B are appropriately and adequately prepared and trained, including:

(1) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education and related services, and

(2) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring or personnel that meet appropriate professional requirements in the State.

Regarding these provisions, the House report accompanying the bill explains:

"The Committee is concerned about the increasing number of personnel providing special education and related services who do not meet the highest State standards established for employment in a specific profession or discipline. For example, many teachers providing special education have been issued temporary teaching certificates and do not meet the full certification standards related to the area in which they provide instruction. The Committee intends that the States will take steps to ensure that all special education teachers are fully qualified and certified for the area in which they are providing instruction."

"The Committee also is concerned that some States have established education and training requirements for individuals providing services that do not apply to all members of that profession employed by State and local educational agencies. For example, 19 States currently require a speech-language pathologist to have a master's degree to legally provide services to handicapped infants and youth in a non-public agency. However, in these same States, the State educational agency allows individuals with less than a master's degree to provide services to handicapped infants, children and youth in the schools. The Committee hopes that States will take steps to ensure that professionals providing special education

and related services meet appropriate professional requirements in the State to practice a specific profession or discipline."

Evaluation. Section 618 of the Act, evaluation, is amended in the following ways. First, to reflect the addition of Part H relating to early intervention for handicapped infants and toddlers.

Second, to modify the Secretary's obligation with respect to the collection of data by age and disability category to provide that for infants and toddlers aged 0-2, and handicapped children aged 3-5, the data collected shall NOT be by disability category but rather for the age group as a whole. This will enable States to identify and serve young handicapped children, infants and toddlers without having to categorically label these children by disability category because of the existence of the data collection requirements.

Third, the bill provides that in the annual report for fiscal year 1988, which is published in 1989, the Secretary must include special sections addressing the provision of a free appropriate public education in rural areas and to migrants, Indians, Native Hawaiians, and other native pacific basis children and youth.

Before October of 1989, the Secretary shall study and then include in the earliest possible annual report submitted to Congress on the implementation of new Part H of the Act. The information to be obtained should describe which States chose to participate in the program; how States have defined "developmentally delayed;" what States have done regarding the development of "State Policy;" what are the actual or anticipated costs of serving a child; what are the sources of funds for services to handicapped infants and toddlers used by the States; how many children are being served; and what types of services and programs do these children move into when they reach the age of three.

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